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10/534,365

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EXAMINER

STEPHENSON, DANIEL P

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/534,365
Filing Date: December 05, 2005
Appellant(s): VIRTANEN, STEFAN

Robert J. Patch
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/31/07, 2/28/08, 6/20/08 and 10/02/08 appealing from the Office action mailed 5/18/07.

(1) Real Party in Interest

The real party in interest in this appeal is the assignee, ATLAS COPCO SECOROC AB.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(8) Evidence Relied Upon

6,799,648

Brandenberg et al.

10-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by
Brandenberg et al. (US 6,799,648).

As best understood by the examiner, referring to claim 1, Brandenburg discloses (best shown in Fig. 1) a reamer assembly including a shank (16) for attachment of the reamer to the end of a down-the-hole hammer drill and a conical drill bit or crown (10), characterized in that the conical bit of the reamer is divided into at least three conical segments (various segments 24). These are terminated with a transverse end surface, which directly connects the conical segments. These segments include drill buttons (30). There is one drill button (located in the angled portion 22) in each of said at least three segments that is disposed equidistantly from the centre axis of the drill bit at the same distance as at least one drill button in each of the other of said at least three conical segments. Each of the conical segments (18) having plural drill

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buttons (one on the flat portion and one on the angled portion, for a total of 2) disposed at different distances from the center axis of the drill bit .

Referring to claim 3, Brandenburg discloses the drill buttons are placed mutually in the same pattern in each of the segments.

Referring to claim 4 and 7, Brandenburg discloses a plurality of drill buttons are disposed at the same distance from the center of the drill bit.

Referring to claim 5, Brandenburg discloses the drill buttons lie close to each other in a common plane projection (see fig. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brandenburg '648.

Brandenburg discloses a drill button in the transverse end section but does not disclose a plurality of drill buttons. However, in different embodiments Brandenburg discloses a plurality of drill buttons in a transverse end section. Furthermore, duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the assembly disclosed by Brandenburg to have a plurality of drill buttons on the transverse end because duplicating the components of a prior art device is a design consideration within the skill of the art.

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(10) Response to Argument

It is the assertion of the applicant that, “the buttons 30 on the conical surfaces 22 are all at the same distance from the axis of rotation of the drill bit. This arrangement is consistently shown in all of Figures 1-5 of BRANDENBERG et al.” The examiner agrees with this statement, but points out that this is not what the claim language is related to. The conical surface 22 put forth by Brandenburg et al., and pointed out in the arguments of the applicant, is not the same as the conical segment of Brandenburg et al. The conical segment includes both the conical surface 22 and the flat portion 24 attached to it. The examiner notes that it is the “conical segment” which must have a plurality (read as 2) of bits at different distances from the center axis of the bit. The limitation is satisfied by the Brandenburg et al. document.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/David J. Bagnell/

Supervisory Patent Examiner, Art Unit 3672

Daniel Stephenson, Examiner, Art Unit 3676

DPS

Conferees:

David Bagnell, Supervisory Patent Examiner, Art Unit 3672 /DJB/

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Lesley Morris, Acting Appeal Conference Specialist /LDM/